

ELDER AFFAIRS DEPARTMENT[321]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 28, "Iowa Senior Living Program—Home- and Community-Based Services for Seniors," Iowa Administrative Code.

The proposed amendments:

1. Bring the chapter's language into compliance with changes made in Iowa Code chapter 249H; and
2. Add a severability clause to the chapter.

Any interested person may make written suggestions or comments on these proposed amendments before 4:30 p.m. on July 23, 2008. Written comments should be directed to the Department of Elder Affairs, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to danika.rosales@iowa.gov; or faxed to (515)725-3300.

These amendments are intended to implement Iowa Code chapter 231.

The following amendments are proposed.

ITEM 1. Amend rule **321—28.3(231,249H)**, "Senior living program" as follows:

"Senior living program" means the senior living program created in Iowa Code chapter 249H to provide for long-term care alternative services, ~~long-term care service development, and nursing facility conversion.~~

ITEM 2. Adopt the following new subrules 28.6(3)28.6(4):

28.6(3) An AAA may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the AAA does not utilize Older Americans Act funding for the same service category.

28.6(4) An AAA subcontractor may use client participation for services funded under Iowa Code section 249H.7 for persons with moderate income or above if the subcontractor does not receive Older Americans Act funding for the same service category.

ITEM 3. Amend rule 321—28.8(231,249H) as follows:

321—28.8(231,249H) Prohibited use of senior living trust fund moneys. SLTF moneys shall be not be used to:

- ~~1. —Fund the same service category when providing direct service.~~
- ~~2. —Contract Older Americans Act funds and senior living trust funds to a provider for the same service category.~~

~~3. 1.~~ Purchase a service when the client is eligible for third-party purchase of that service by sources such as Medicare, Medicaid, Medicaid home- and community-based services (HCBS) waiver and private long-term care insurance.

~~4. 2.~~ Replace existing funding for a long-term care service.

The department may grant an exception in order to enhance access to a service if the displaced funding is subsequently dedicated by the AAA to another long-term care service for seniors and results in an increase in total AAA funding for long-term care services to seniors equal to the SLTF dollars used for replacement.

ITEM 4. Rescind paragraph **28.9(1)“b.”**

ITEM 5. Reletter paragraph **28.9(1)“c”** as **28.9(1)“b.”**

ITEM 6. Amend paragraph **28.9(4)“b”** as follows:

b. ~~For subsequent state fiscal years,~~ SLTF service dollars appropriated under Iowa Code section 249H.7 shall be disbursed to subcontractors through the area plan process as described in 321 IAC 5.

ITEM 7. Adopt the following **new** rule 321—28.11(231,249H):

321—28.11(231,249H) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.